

GOVERNMENT OF TELANGANA
ABSTRACT

Tribal Welfare Department - Khammam District - Revision Petition filed by Sri Kukka Satyam S/o Gopaiah, Penuballi (V&M), Khammam District aggrieved by the orders of the Additional Agent to Government, Bhadrachalam in C.M.A.No.257/2007 dated 30.04.2011- Rejected - Orders - Issued.

TRIBAL WELFARE (LTR) DEPARTMENT

G.O.Ms.No. 38

Dated: 03-10-2018

Read the following:-

- 1) Revision Petition filed by Sri Kukka Satyam S/o Gopaiah, Penuballi (V&M), Khammam District Dt: 02.06.2011.
- 2) Govt.Letter No.8470/LTR.2/2011, dated 08.07.2011.
- 3) From the Additional Agent to Government, ITDA, RP.No.8470/LTR-2/11 (CMA No.257/2007) Dated 08.12.2012.

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ORDER

In the reference 1st read above, Sri Kukka Satyam S/o Gopaiah, Penuballi (V&M), Khammam District has filed Revision Petition before the Government aggrieved by the orders of the Additional Agent to Government, Bhadrachalam in C.M.A.No.257/2007 dated 30.04.2011 in respect of land to an extent of Acs.2-07, Sy.No.52/Da/14/6 situated at Gowraram Village of Penuballi (M), Khammam District.

2. In the reference 2nd read above, while enclosing copy of the Revision Petition, the Project Officer & Additional Agent to Government, Bhadrachalam was requested to furnish Para Wise Remarks and connected case records and in the reference 3rd read above the Additional Agent to Government, Bhadrachalam has furnished Para Wise Remarks and connected case records.

3. The Main grounds of the case are as follows:

1. That the order of the Additional Agent to Government, Bhadrachalam, Khammam District under revision is arbitrary, not in appreciation of the facts in accordance with law, ultra vires the provisions of Land Transfer Regulation 1/1959 as amended by Regulation 1/1970 against the principles of natural justice and against the binding precedents of the Hon'ble High Court of Judicature of A.P., and the Hon'ble Supreme Court of India. Therefore not sustainable under law.
2. That the order under revision is issued by the Additional Agent to Government, Bhadrachalam, Khammam District with material irregularity and illegally, without considering and appreciating the grounds of appeal filed by the petitioner and passed the order under revision without any justification and therefore the impugned order under appeal is liable to be set aside.
3. That the Additional Agent to Government, Bhadrachalam, Khammam District failed to note and consider that, he is having jurisdiction to pass order and decree ejectment of the persons who are in possession of immovable property in the scheduled area claiming under transfer affected subsequent to the commencement of the Regulation, and that he is not having jurisdiction or authority to adjudicate anything in respect of the possession of the petitioner who is claiming possession since long prior to the commencement of the Regulation. Therefore the orders of the Additional Agent to Government, Bhadrachalam, Khammam District is without jurisdiction, and the observation is supported by any evidence, enquiry or justifiable reasons. Therefore the order under revision is liable to be set aside.

4. The Additional Agent to Government, Bhadrachalam, Khammam District having failed found that, the possession of petitioner is since prior to Regulation, ought to have confirmed the orders of the Special Deputy Collector(TW), Bhadrachalam by dismissing the appeal, the Additional Agent to Government, Bhadrachalam, Khammam District, arbitrarily, without any jurisdiction and authority passed the order under revision.
5. Fixed Court fee is paid and the revision is filed with-in the stipulated period of limitation.
6. That for these and other grounds of revision that may be urged at the time of arguments, the revisions petitioner herein prays that, the Government of A.P., be pleased to suspend the impugned orders under revision dated:30-04-2011 in C.M.A.No. 257/2007 pending disposal of the revision, and call for the connected records from the AAG, Bhadrachalam, Khammam District in C.M.A.No. 257/2007, and the records from the Special Deputy Collector (TW), Bhadrachalam in L.T.R. Case No.269/05/PNB, and set aside the impugned orders dated:30-04-2011 on the file of the Additional Agent to Government, Bhadrachalam, Khammam District in respect of the schedule land for want of jurisdiction, and defects as stated supra, and pass such other order or orders as the Hon'ble Government deems fit and proper in the circumstances of the case.

4. The remarks of the Additional Agent to Government, Bhadrachalam on the Revision Petition are as under:

Originally LTR case No.269/05 was initiated before the Special Deputy Collector (TW) Bhadrachalam between Madiraju Srirama Rao as petitioner and Kukka Satyam as Respondent. The Special Deputy Collector (TW) Bhadrachalam (2nd Respondent herein) after due enquiry passed orders to restore the land to the Tribal Petitioner or is legal heirs. Against the orders of the Special Deputy Collector (TW) Bhadrachalam the Revision Petitioner herein filed a CMA No. 25/07 before the 1st Respondent herein (Additional Agent to Government, Bhadrachalam). The Additional Agent to Government, Bhadrachalam herein after due enquiry dismissed the appeal by modifying the lower court order on 30-04-2011. Against the orders of the Additional Agent to Government, Bhadrachalam herein the revision petition is filed.

- The Revision Petitioner's case is originally the scheduled land belongs to one Mittapalli Nagaratnam who sold the land to Pulicharla Venkaiah on 1-08-1959 through a sada sale deed and later they said land was again sold to Kukka Satyam (Revision petitioner herein) through a sada sale dated:5-05-1963. Both the sale deeds are un registered and through the said alleged unregistered sales the title will not pass to the purchaser. As seen from the pahanies the name of the revision petitioner is corrected in enjoyers column and the correction is clearly visible. Therefore the pahanies are not accepted.
- Even in pahani 2003-2004 the name of Pulicherla Bhiksham recorded as pattadar and Kukka Gopaiah as enjoyer. As per this pahani also Kukka Gopaiah who is the revision petitioner is not the pattadar. All these copies clearly show that Kukka Gopaiah revision petitioner is not the pattadar and is enjoying the property by way of sale. Therefore the Revision petitioners is unable to satisfy the court that possession is lawful and prior to the commencement of the Regulation. The Additional Agent to Government, Bhadrachalam, Khammam District clearly discussed about the case and tampering of pahanies and passed orders. The revision petitioner's possession over the schedule land is illegal. It is therefore prays to dismiss the revision.

- In view of the above, that the orders passed by the lower courts the Special Deputy Collector(TW), Bhadrachalam are proper and legally correct and in accordance with the provisions of APSA Land Transfer Regulation 1/59 as amended by 1/70. It is therefore prayed that the Government may be pleased to dismiss the Revision Petition.

5. Government after conducting hearings and after careful examination of the Revision Petition and as verified from the documents produced before the authority as well as before the Additional Agent to Government, Bhadrachalam it is observed that;

- The Revision Petition is filed against the order of Additional Agent to Government, Bhadrachalam in C.M.A.No.257/2007 dated 30.04.2011. Revision Petitioner claims that he got the land from his father as hereditary property. The Revision Petition claimed that his father Sri Gopaiah purchased the land in the year 1959 from Sri M.Sriram Rao and M.Nagarathnam through a sada sale deed and he has been in continuous possession as the land since that date. In support of his claim he produced cyst receipts and pahanies.
- The sale transaction took place between two non tribes. There was no restriction for Registration of land in the year 1959. The Revision Petitioner's father should have got it registered in case he has really purchased in 1959.
- Hence the sale transaction is in violation of Section (3) of LTR.

6. Government after careful examination of the matter hereby rejects the Revision Petition of Sri Kukka Satyam S/o Gopaiah, Penuballi (V&M), Khammam District and hereby upholds the orders of the Additional Agent to Government and Project Officer, ITDA, Bhadrachalam in C.M.A.No.257/2007 dated 30.04.2011 in respect of land to an extent of Acs.2-07, Sy.No.52/Da/14/6 situated at Gowram Village of Penuballi (M), Khammam District.

7. The Additional Agent to Government and Project Officer, ITDA, Bhadrachalam, Bhadradi Kothagudem District shall take necessary further action accordingly. The original case records received in the reference 3rd read above are returned herewith.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

BENHUR MAHESH DUTT EKKA,
SECRETARY TO GOVERNMENT

To

Sri Kukka Satyam S/o Gopaiah, Penuballi (V&M), Khammam Distri.
The Project Officer, ITDA and Additional Agent to Government,
Bhadrachalam, Bhadradi Kothagudem District (w.e.)

Copy to :

The Special Deputy Collector(TW), Bhadrachalam, Khammam District.
for information and necessary action.

The Tahsildar, Penuballi Village & Mandal, Khammam District.

Sri Nanduri Srinivasa Rao & Sri Komma Raju Srimannarayana, Advocates
(Counsel for the petitioner) Advocates, Bhadrachalam - 507 111.

P.S to M(TW)/P.S. to Secretary(TW)

SF/SC

// FORWARDED:: BY ORDER //

SECTION OFFICER